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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/589,993	08/18/2006	Malcolm David Boosey	37261P122	2472

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Blakely Sokolof Taylor & Zafman
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Los Angeles, CA 90025

EXAMINER

LUGO, CARLOS

ART UNIT	PAPER NUMBER
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3673

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/589,993	Applicant(s) BOOSEY ET AL.	
	Examiner CARLOS LUGO	Art Unit 3673	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 February 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3,5,7-14, 19 and 21-41 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 3,5,7-14, 19 and 21-41 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 August 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. **Claims 5, 7-12, 21-29 and 34-41 are objected** to because of the following informalities:

- Claim 21, rewrite the claim as follows:

A self latching device for securing a movable member with respect to a stationary member, the self latching device comprising:

a housing;

a latch member moveable between a latching position, extending out of the housing to engage a strike on the stationary member, and a non latching position, retracted inside the housing;

a manually operating member movable between an extended and a retracted position within the housing;

a drive mechanism, operatively connected to the operating member and to the latch member to move the latch member with respect to the operation of the operating member;

magnets for moving the latch member into the latching position, the magnets including a magnet fixed on the strike and a magnet moveable on the latch member, the magnet on the latch member being moveable in a direction transverse to the direction in which the latch member moves between the latching and non-latching positions;

a moving device to move the movable magnet;

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and a biasing device to bias the latch member into the non-latching positions; wherein, when the operating member is moved to the retracted position, it will operatively move the drive mechanism, the drive mechanism will move latch member and the moving device to move the magnet out of magnetic engagement with the magnet on the strike and allow the latch member to move into the non-latching position by the biasing device.

- Claim 22, rewrite the claim as follows:

A window sash mounted for vertical sliding movement in a frame, the sash including vertical side elements in each of which is located a self latching latch device, the self latch device comprises:

a housing;

a latch member movable between a latching position and a non-latching position, the latch member, when in the latching position, extends outwardly from the housing to engage in a strike located with a portion of the frame which is adjacent the vertical side element of the sash;

a biasing device to bias the latch member into the non- latching position;

magnets for moving the latch member into engagement with the strike when the sash has moved to a position where latching of the sash is to occur;

a slider mechanism that includes an operating element, an engagement member and a moving device, the operating element is moveable from a latched position to effect movement of the latch member to its non-latching position by moving the engagement member, which moves the moving device, the operating element being

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movable in a direction transverse to the direction in which the latch member moves between the latching and non-latching positions;

the magnets include two magnets one fixedly mounted with the strike and the other movable mounted with the latch member, whereby the latch member is moved into the latching position by attraction between the magnets, the magnet on the latch member being moveable in a direction transverse to the direction in which the latch member moves between the latching and non-latching positions,

the moving device moves the magnet on the latch member to magnetically disengage, thereby the latch member can be moved to the non-latching position by the biasing device.

- Cancel claims 5, 7, 9, 10, 12, 23, 24, 26, 28, and 29 because the limitations are already presented in claims 21 and 22, as examined above.
- Claim 8, change “claim 7” to -claim 21-.
- Claim 11, change “claim 10” to -claim 21-.
- Claim 25, change “claim 24” to -claim 22-.
- Claim 27, change “claim 26” to -claim 22-.
- Cancel claims 34-41 since the limitations with respect to the slider mechanism are drawn to the embodiments shown in figures 9-16, which are not capable of being combined with the limitations presented in claims 21 and 22, which is drawn to the device shown in figures 1-8. The embodiment shown in figures 1-8 requires at least a biasing device to bias the latch member to the unlatch position. The current specification and drawings fails to show that the

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embodiments shown in figures 9-16 are capable of having this element. Claims 21 and 22 are not generic claims.

- As to claims 30 and 31, although the limitations are only presented in figures 9-16, the limitations are drawn to the strike part. At the instant, these claims are considered generic for all the embodiments, since it does not affect the mechanism of the device.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

- The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. **Claims 3, 5, 7-14, 19 and 21-41 are rejected** under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

First, claims 21 and 22 are not generic claims. At the instant, the claims require a biasing device, which is an essential element to move the latch member to the non-latching position.

The applicant discloses 2 embodiments in the application, figures 1-8 and figures 9-16. At the instant, the applicant shows that the embodiment shown in figures 9-16 works without a biasing device. Therefore, the limitations presented in claims 34-41 will be withdrawn from consideration since the limitations on those claims are not capable to work with the embodiment claimed in claims 21 and 22. Cancellation of the claims is required.

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Second, claims 21 and 22 recites that the latching device comprises a latch member, a biasing device and magnets. Claim 22 further recites an operating element.

However, the claim language omits essential structure in order to move the latch member and the magnets to do the latch and unlatch. The button (26), the drive mechanism (34), the slider (31), how the magnet is moved, etc, is missing from the claims, which are required since they are essential structure. Therefore, in order to continue with the examination, the device will be examined as shown in the Claim Objection section above. Appropriate correction is required (see claim objection section above on how to overcome this rejection).

Third, the claims recite that the biasing device biases the latch member toward the latch or unlatch position and the magnets into the other position. However, the current application fails to provide any support or to describe the device where the biasing device (23) bias the latch to the latch position and the magnets (33 and 43) toward the unlatch position. The current specification just mentions that the modification is “apparent” to those skilled in the art. However, the specification and the drawing fails to show and describe the device having the biasing device biasing the latch to the latching position and the magnets to move into the unlatching position and to show that the magnet in the latch is fixed and that the magnet on the strike is movable and how is movable. Therefore, in order to continue the examination, the limitation will be interpreted as the biasing device biasing the latch member toward the non latching position and the magnets toward the latching position, and the

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magnet on the strike is fixed and the one on the latch member is movable by the moving device. Appropriate correction is required (see claim objection section above on how to overcome this rejection).

Allowable Subject Matter

4. **Claims 21 and 22 would be allowable** if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action (as interpreted, see claim objection section above).
5. At the instant, the Prior Art fails to disclose the invention presented in claims 21 and 22, as interpreted by the examiner.

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to CARLOS LUGO whose telephone number is (571)272-7058. The examiner can normally be reached on 10-7pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo can be reached on 571-272-6856. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>.

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Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Carlos Lugo/
Primary Examiner
Art Unit 3673

March 14, 2009.